

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13559 of 2024

Parvej Akhtar @ Md. Parwej Akhtar Md. Nizamuddin Khan, R/o Village-Piro P.S.
Piro District-Bhojpur

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Education Department, Government of Bihar, Patna.
2. The Director, Primary Education, State of Bihar, Patna.
3. The Regional Deputy Director Primary Education Govt. of Bihar, Patna.
4. The District Superintendent of Education Ara Bhojpur.
5. The Block Education Officer, Education Department, Piro, District- Bhojpur.
6. The District Program Officer, Ara, District- Bhojpur.
7. The Sub-Divisional Officer, Piro, Bhojpur.
8. The Head Master Prathmik Vidyalaya, Charpokhri, District-Bhojpur.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Satyavir Bharti, Advocate Ms. Kanupriya, Advocate
For the Respondent/s	:	Mr. Standing Counsel (5) Mr. Madan Mohan, AC to SC- 05

CORAM: HONOURABLE MR. JUSTICE NANI TAGIA
ORAL JUDGMENT

Date : 09-09-2024

Heard learned counsel for the parties.

2. The petitioner has filed this writ petition challenging the memorandum of charge dated 08.07.2021, as contained in memo No. 2386; the Inquiry report dated 10.09.2021 and the order of punishment dated 30.09.2021, as contained in memo No. 3530, issued in exercise of power conferred under Rule 6 of the Bihar Nationalised Primary School Teacher - Transfer, Disciplinary Action and Promotion Rules, 2018 (hereinafter referred to as “the Rules, 2018”) read with Rule 14 of the Bihar CCA Rules, 2005, dismissing the petitioner from the service of Urdu Primary



Teacher. The impugned order of dismissal dated 30.09.2021 has been issued by District Education Officer, Bhojpur.

3. Learned counsel for the State has submitted that under Rule 18 of Rules, 2018, the petitioner has remedy to file an appeal before the Regional Education Deputy Director, Government of Bihar.

4. Learned counsel for the petitioner has argued that memorandum of charge dated 08.07.2021 was framed contrary to the “Framing of Article of Charge Against Government Servant Regulations, 2017” framed by the State Government for framing of charge against the government servant; the Inquiry report was prepared without fixing any date for inquiry and without examining any witness, the Inquiry Officer had recommended the petitioner for dismissal from service, which is not permissible.

5. Learned counsel for the petitioner also contends that the impugned order of dismissal, dated 30.09.2018, was issued on the basis of decision of the District Establishment Committee, which is not empowered to take any decision for dismissal of any employee of the school. The Committee is empowered to take decision only on transfer and promotion of the employees of the school. Learned counsel for the petitioner, therefore, contends that



the impugned action of the respondent-authorities are contrary to the Rules and also without jurisdiction.

6. Apart from challenging the memorandum of charge dated 08.07.2021; Inquiry report dated 10.09.2021 and the dismissal order dated 30.09.2021, the petitioner has also prayed for a direction to the respondents to pay the arrears of salary and other consequential benefits as also the pensionary benefits since 24.04.2024, which is the date of retirement of the petitioner.

7. Be that as it may, since Rule 18 of the Rules, 2018 provides for a Statutory Appellate Authority, which, in the instant case, is stated to be Regional Education Deputy Director, Government of Bihar and that the Statutory Appellate Authority has all the powers to examine the legality of the decision taken by the Disciplinary Authority of the petitioner and to set right the illegalities committed by the Disciplinary Authorities, if they are found to have not acted in accordance with the Rules or without jurisdiction or any authority of law, I am not inclined to exercise the discretionary power under Article 226 of the Constitution of India when an alternative remedy of approaching the Statutory Appellate Authority provided under the Rules is available to the petitioner.



8. Under the circumstances, this writ petition shall stand disposed of with liberty granted to the petitioner to approach the Appellate Authority under the provisions of the Bihar Nationalised Primary School Teacher- Transfer, Disciplinary Action and Promotion Rules, 2018, if so advised.

9. The writ petition is disposed of with the above directions.

(Nani Tagia, J)

Siddharth
Sagar/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	10.09.2024
Transmission Date	NA

